

**BOIES SCHILLER FLEXNER LLP**

David Boies (admitted pro hac vice)  
333 Main Street  
Armonk, NY 10504  
Telephone: (914) 749-8200  
dboies@bsfllp.com

Mark C. Mao, CA Bar No. 236165  
Beko Reblitz-Richardson, CA Bar No. 238027  
44 Montgomery St., 41st Floor  
San Francisco, CA 94104  
Telephone: (415) 293-6800  
mmao@bsfllp.com  
brichardson@bsfllp.com

**SUSMAN GODFREY L.L.P.**

Bill Carmody (pro hac vice)  
bcarmody@susmangodfrey.com  
Shawn J. Rabin (pro hac vice)  
srabin@susmangodfrey.com  
One Manhattan West, 50th Floor  
New York, NY 10001  
Telephone: (212) 336-8330

**MORGAN & MORGAN**

John A. Yanchunis (pro hac vice)  
jyanchunis@forthepeople.com  
Ryan J. McGee (pro hac vice)  
rmcgee@forthepeople.com  
201 N. Franklin Street, 7th Floor  
Tampa, FL 33602  
Telephone: (813) 223-5505

Attorneys for Plaintiffs; additional counsel  
listed in signature blocks below

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL  
CATALDO, JULIAN  
SANTIAGO, and SUSAN LYNN  
HARVEY, individually and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,  
Defendant.

**WILLKIE FARR & GALLAGHER LLP**

Benedict Y. Hur, CA Bar No. 224018  
bhur@willkie.com  
Simona Agnolucci, CA Bar No. 246943  
sagnolucci@willkie.com  
Eduardo E. Santacana, CA Bar No. 281668  
esantacana@willkie.com  
Argemira Florez, CA Bar No. 331153  
aflorez@willkie.com  
One Front Street, 34th Floor  
San Francisco, CA 94111  
Telephone: (415) 858-7400  
Facsimile: (415) 858-7599

Attorneys for Defendant Google LLC

Case No.: 3:20-cv-04688-RS

**JOINT PRETRIAL SCHEDULING  
SUBMISSION**

Judge: Hon. Richard Seeborg

Pursuant to the Court’s October 25, 2024 order (Dkt. 438), Plaintiffs Anibal Rodriguez, Sal Cataldo, Julian Santiago, and Susan Lynn Harvey (“Plaintiffs”) and Defendant Google LLC (“Google”) (collectively the “Parties”) jointly submit this filing regarding the briefing schedule for the remaining pretrial motions.

The table below includes briefing deadlines and other deadlines agreed to by the Parties based on the Court’s Guidelines for Final Pretrial Conference in Civil Jury Cases. After this table, the Parties include a short statement regarding two unresolved issues, where the Parties have also identified their different positions in the table below.

Event	Date	Parties’ Positions (If Different)
Google files its damages-related motion	December 19, 2024	
Plaintiffs file their opposition to Google’s damages-related motion	January 16, 2024	
Google files its reply in support of its damages-related motion	January 30, 2024	
Parties file any <i>Daubert</i> motions	April 3, 2025	<b>Plaintiffs:</b> Does not include Google’s motion to exclude Sundar Pichai <b>Google:</b> Includes Google’s motion to exclude Sundar Pichai
Parties file oppositions to any <i>Daubert</i> motions	April 24, 2025	
Parties file replies in support of any <i>Daubert</i> motions	May 1, 2025	
Parties file proposed juror questionnaires	May 23, 2025	
If any dispute, Parties file responses to proposed juror questionnaires	June 2, 2025	
If any dispute, Parties file replies to proposed juror questionnaires	June 6, 2025	

1	Court ordered juror questionnaires sent to potential jury pool	June 20, 2025	
2			
3	Parties exchange final set of exhibits, summaries, charts, and diagrams to be used at trial (other than those solely for impeachment or rebuttal)	June 6, 2025	<b>Plaintiffs:</b> Includes demonstratives <b>Google:</b> Does not include demonstratives
4			
5			
6	Parties exchange objections to exhibits, summaries, charts, and diagrams to be used at trial	June 20, 2025	<b>Plaintiffs:</b> Includes demonstratives <b>Google:</b> Does not include demonstratives
7			
8			
9	Parties file Joint Pretrial Statement and Proposed Order	June 24, 2025	
10			
11	Parties file motions <i>in limine</i>	June 24, 2025	<b>Plaintiffs:</b> Includes Google's motion to exclude Sundar Pichai <b>Google:</b> Does not include Google's motion to exclude Sundar Pichai
12			
13			
14			
15	Parties file any oppositions to motions <i>in limine</i>	July 3, 2025	
16			
17	Parties lodge final set of exhibits, summaries, charts, and diagrams to be used at trial (and any outstanding objections)	July 11, 2025	<b>Plaintiffs:</b> Includes demonstratives <b>Google:</b> Does not include demonstratives
18			
19	Parties file proposed jury instructions and verdict forms	July 14, 2025	
20			
21	Deadline for potential jurors to return juror questionnaire	July 18, 2025	
22	<b><u>Final Pretrial Conference</u></b>	July 23, 2025	
23	Parties exchange deposition and discovery designations	July 24, 2025	
24			
25	Deadline to request daily transcripts and/or Realtime reporting (optional)	August 4, 2025	
26			
27	Parties exchange any objections to deposition and discovery designations (and counter designations)	August 7, 2025	
28			

1	Final set of exhibits due to the Court (3 sets of pre-marked exhibits in 3-ring binders delivered to Courtroom Deputy)	August 13, 2025	
2			
3			
4	Parties file final deposition and discovery designations with any counter designations	August 14, 2025	
5			
6	<b><u>Trial Commences</u></b>	August 18, 2025	

7 While the Parties attempted to resolve all scheduling matters, two issues remain: (1) the  
8 briefing schedule for Google’s motion regarding whether Sundar Pichai may be called by  
9 Plaintiffs to testify at trial; and (2) what deadlines should govern exchanging and submitting  
10 demonstratives to be used at trial and any objections.

### 11 **Plaintiffs’ Separate Statement**

12 ***Pichai Motion.*** The Court indicated during the last case management conference that  
13 Google should file any motion seeking to prevent Plaintiffs from calling Sundar Pichai as a  
14 witness at trial with the motions *in limine*. When Google’s counsel presented this issue regarding  
15 Mr. Pichai, the Court stated: “I would ordinarily do that in the context of the pre-trial conference  
16 and the motions in limine, because I pretty much need to have a good sense of how the trial is  
17 going to be shaking out before I start making calls on what witnesses are going to be testifying.  
18 So I know you may want that, but I think that’s a bit premature, as far as I’m concerned.” Oct.  
19 10, 2024 Hearing Tr. at 7:14–20. Plaintiffs agree. Separating this trial-focused evidentiary  
20 motion from the other motions *in limine* is unnecessary, especially considering that the Pretrial  
21 Conference is scheduled nearly a month before trial, leaving Google ample time to plan  
22 accordingly. *See* Dkt. 438. Google’s heated accusation (below) that this is somehow tied to  
23 mediation is false. Mr. Pichai’s false testimony to Congress regarding the WAA controls featured  
24 prominently in this case long before that mediation, including in Plaintiffs’ complaint, in expert  
25 reports, during depositions, and in briefing both class certification and summary judgment. *See*  
26 Dkt. 427 at 3. Regardless, Plaintiffs defer to the Court on when it wishes to have this discrete  
27 trial-related issue briefed by the Parties.

1       ***Demonstratives.*** Plaintiffs propose that the deadlines for exchanging demonstratives,  
 2       objecting to demonstratives, and lodging final copies of demonstratives should be the same as the  
 3       other similar materials—including “summaries”, “charts”, and “diagrams”—to be used at trial.  
 4       *See* Guidelines for Final Pretrial Conference in Civil Jury Cases Before Chief District Judge  
 5       Richard Seeborg, at 3. Based on Plaintiffs’ proposed schedule, the Parties would lodge all  
 6       material to be used at trial (including demonstratives) one month before trial, with the Parties  
 7       working together to resolve any objections to the proposed demonstratives in advance. Plaintiffs  
 8       believe this would be useful for both the Parties and the Court, and Plaintiffs hope this will help  
 9       narrow the scope of any disputes and avoid burdening the Court unnecessarily during trial.  
 10      Plaintiffs of course defer to the Court on the appropriate deadlines for demonstratives.

#### 11       **Google’s Separate Statement**

12      ***Pichai Motion.*** Google and Plaintiffs disagree on the timing for Google’s motion to  
 13      exclude Sundar Pichai, Google’s CEO, from testifying at trial. Google proposes aligning the  
 14      deadline with *Daubert* motions on April 3, 2025, while Plaintiffs propose filing it with motions in  
 15      limine on June 30, 2025, to be resolved at the pretrial conference on July 23, 2025.

16      Mr. Pichai’s position as CEO makes his situation distinct. His professional responsibilities  
 17      are significant and typically scheduled well in advance, making last-minute changes especially  
 18      disruptive. Further, Mr. Pichai has not been a custodian or deponent in this case, meaning his  
 19      preparation would have to start from scratch. Under Plaintiffs’ proposed timeline, if the motion  
 20      is denied, there would be less than a month to schedule him for trial.

21      Additionally, Google’s counsel are scheduled to participate in two other trials in Summer  
 22      2025, creating further logistical challenges. Resolving this issue in April 2025—after summary  
 23      judgment has been decided—would minimize unnecessary uncertainty and avoid the need for  
 24      disruptive preemptive holds on Mr. Pichai’s schedule, which would be required under Plaintiffs’  
 25      approach.

26      Finally, Plaintiffs provide no rationale for refusing to advance the decision on Mr. Pichai’s  
 27      potential need to attend trial. But it is clear that Plaintiffs’ last-minute addition of Mr. Pichai’s  
 28      name to their initial disclosures, years after fact discovery closed but only days after a mediation

1 failed, is designed to exert settlement pressure, not to secure a just determination in this case.  
 2 Given that Plaintiffs cannot identify a reason why they cannot explain their position in the Spring  
 3 rather than Summer about Mr. Pichai, Google respectfully requests that any motion to exclude  
 4 Mr. Pichai's trial testimony be addressed alongside *Daubert* motions, far enough in advance to  
 5 address the unique difficulties involved in setting his schedule. And, should the Court rule Mr.  
 6 Pichai must attend trial, an earlier decision on this will help resolve any potential conflicts with  
 7 scheduled events during the time period of the trial, including if necessary, any appeal to the  
 8 Court to make adjustments to the trial schedule. A later decision may cause avoidable conflict  
 9 and chaos.

10 ***Demonstratives.*** The parties also disagree on the treatment of demonstratives for trial.  
 11 Plaintiffs propose that the deadline for demonstratives align with the deadline for charts and  
 12 diagrams to be used at trial. Google, however, does not agree that demonstratives need to be  
 13 addressed so far in advance. Demonstratives are not part of Judge Seeborg's standing order. And  
 14 an exchange of demonstratives several weeks before motions in limine are decided borders on  
 15 useless. Nor are demonstratives the same as "summaries, charts, and diagrams," which are  
 16 evidence affected by applicable Rules of Evidence, unlike demonstratives. While Google is open  
 17 to later discussions to establish a mutually workable schedule for demonstratives closer to trial,  
 18 it does not believe their inclusion in the current briefing schedule is necessary or appropriate, and  
 19 Plaintiffs have not identified any justification for deviating from the usual course. Google  
 20 therefore also respectfully requests the Court's guidance on this issue.

21  
 22  
 23 DATED: December 12, 2024

BOIES SCHILLER FLEXNER LLP

24 By: Mark C. Mao

25 David Boies (admitted pro hac vice)  
 333 Main Street  
 26 Armonk, NY 10504  
 Telephone: (914) 749-8200  
 27 dboies@bsfllp.com

28 Mark C. Mao (CA Bar No. 236165)

mmao@bsfllp.com  
Beko Reblitz-Richardson (CA Bar No. 238027)  
brichardson@bsfllp.com  
44 Montgomery Street, 41st Floor  
San Francisco, CA 94104  
Telephone: (415) 293-6858

James W. Lee (pro hac vice)  
jlee@bsfllp.com  
Rossana Baeza (pro hac vice)  
rbaeza@bsfllp.com  
100 SE 2nd Street, Suite 2800  
Miami, FL 33130  
Telephone: (305) 539-8400  
Facsimile: (305) 539-1304

Alison Anderson (CA Bar No. 275334)  
aanderson@bsfllp.com  
M. Logan Wright (CA Bar No. 349004)  
mwright@bsfllp.com  
2029 Century Park East  
Suite 1520  
Los Angeles, CA 90067  
Telephone: (213) 995-5720

SUSMAN GODFREY L.L.P.  
Amanda Bonn (CA Bar No. 270891)  
abonn@susmangodfrey.com  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA 90067  
Telephone: (310) 789-3100

Bill Carmody (pro hac vice)  
bcarmody@susmangodfrey.com  
Shawn J. Rabin (pro hac vice)  
srabin@susmangodfrey.com  
Steven Shepard (pro hac vice)  
sshepard@susmangodfrey.com  
Alexander P. Frawley (pro hac vice)  
afrawley@susmangodfrey.com  
Ryan Sila (pro hac vice)  
rsila@susmangodfrey.com  
One Manhattan West, 50th Floor  
New York, NY 10001  
Telephone: (212) 336-8330

MORGAN & MORGAN  
John A. Yanchunis (pro hac vice)  
jyanchunis@forthepeople.com

Ryan J. McGee (pro hac vice)  
rmcgee@forthepeople.com  
201 N. Franklin Street, 7th Floor  
Tampa, FL 33602  
Telephone: (813) 223-5505

Michael F. Ram (CA Bar No. 238027)  
mram@forthepeople.com  
711 Van Ness Avenue, Suite 500  
San Francisco, CA 94102  
Telephone: (415) 358-6913

*Attorneys for Plaintiffs*

WILLKIE FARR & GALLAGHER, LLP

By: /s/ Benedict Y. Hur

Benedict Y. Hur (CA Bar No. 224018)  
bhur@willkie.com  
Simona Agnolucci (CA Bar No. 246943)  
sagnolucci@willkie.com  
Eduardo E. Santacana (CA Bar No. 281668)  
esantacana@willkie.com  
Argemira Florez (CA Bar No. 331153)  
aflorez@willkie.com  
One Front Street, 34th Floor  
San Francisco, CA 94111  
Telephone: (415) 858-7400  
Facsimile: (415) 858-7599

*Attorneys for Defendant Google LLC*